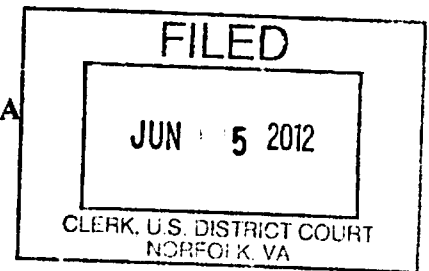


**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**
Norfolk Division



THOMAS C. ROBINSON, #1174464

Petitioner,

v.

ACTION NO. 2:11cv519

HAROLD W. CLARKE,
Director of the Virginia
Department of Corrections,

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2254. The petition alleges violation of Petitioner's constitutional rights pertaining to his convictions for grand larceny. Petitioner was convicted of this crime on April 23, 2011 in the Circuit Court for the City of Hampton, as a result of which he was sentenced to serve four years and six months in jail. The petition was referred to a United States Magistrate Judge for report and recommendation, pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Local Civil Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia.

Petitioner did not appeal his convictions to the Supreme Court of Virginia, nor did he file a petition for writ of habeas corpus with the Supreme Court of Virginia. Pursuant to 28 U.S.C. § 2254(b), this Court must decline to reach the merits of the petition until the state courts have been afforded full opportunity to consider Petitioner's contentions. Accordingly, the Magistrate Judge's Report and Recommendation, filed May 7, 2012, recommends dismissal of the petition without prejudice so that Petitioner may exhaust his state remedies. The Report further

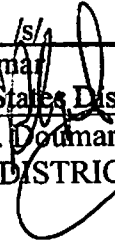
recommended that Petitioner's Motion to Deny Respondent's Request and Motion to Award Confinement Credits (ECF No. 14) be denied as moot and duplicative. The Court has received no objections to the Report and Recommendation, and the time for filing objections has expired.

The Court does hereby accept the findings and recommendations set forth in the Report and Recommendation filed on May 7, 2012, and it is therefore ORDERED that the petition be, and it hereby is, DISMISSED without prejudice so that Petitioner may exercise his right to proceed properly in the Virginia state courts. See Slayton v. Smith, 404 U.S. 53 (1971). The Court further adopts the Report's recommendation regarding Petitioner's Motion to Deny Respondent's Request and Motion to Award Confinement Credits, and it is therefore ORDERED that that motion be DISMISSED.

Petitioner may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within 30 days from the date of entry of such judgment.

Petitioner has failed to demonstrate "a substantial showing of the denial of a constitutional right," therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. See Miller-El v. Cockrell, 537 U.S. 322, 335-36 (2003).

The Clerk shall mail a copy of this Final Order to Petitioner and to counsel of record for Respondent.



Robert G. Doumar
Senior United States District Judge

Robert G. Doumar
UNITED STATES DISTRICT JUDGE

Norfolk, Virginia
June 5, 2012